IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Smt.Swaroopi & Ors. Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.421/2005

against the order dt.4.3.2005 passed by Additional Sessions Judge, Nagaur in Cr.Revision No.07/2005

DATE OF ORDER :: August 18, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Sunil Mehta, for the petitioner.

Mr.Ashok Upadhyaya, Public Prosecutor.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioners have challenged the order dt. 4.3.2005 passed by Additional Sessions Judge, Nagaur (for short 'the revisional court' hereinafter) in Cr.Revision No.07/2005, whereby the revisional court while dismissing the revision petition filed against the order dt. 3.11.2004, directed the petitioners to raise the objections before the trial court and if the trial court is

satisfied with the objections, the trial court may pass an appropriate order.

I have heard learned counsel for the parties.

The order of revisional court cannot be sustained in view of Three Judge Bench decision of Hon'ble Supreme Court in Adalat Prasad vs. Rooplal Jindal, **JT 2004 (7) SC 243,** wherein the Apex Court held that the Criminal Procedure Code does not contemplate review of an order. Hence in absence of any review power with the subordinate criminal court, the remedy lies in invoking section 482 Cr.P.C. It was further held that once the trial court has taken cognizance, it is not open for the trial court to review or recall its order. In the circumstances, therefore, the petition deserves to be allowed and the matter deserves to be remanded to the revisional court to decide it on merit afresh.

In the result, the cr.misc. petition is allowed. Order impugned dt. 4.3.2005 passed by Additional Sessions Judge, Nagaur is set aside. The matter is remanded to the revisional court to be decided afresh on merit in accordance with law. Ad interim stay order dt. 26.4.2005 is vacated. Stay petition also stands disposed of.

[H.R.PANWAR],J.

m.asif/-